

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

ESTHERRENE COLEMAN

Claimant

VS.

DOLD FOODS, INC.

Respondent

Self-Insured

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Docket No. 248,575

ORDER

Respondent appeals from a preliminary Order. The Order, dated November 15, 1999, granted claimant's request for temporary total disability benefits and medical treatment.

ISSUES

Respondent advances three reasons the Administrative Law Judge erred in ordering temporary total disability benefits. Respondent argues: (1) the claimant's absence from work was not related to claimant's physical condition; (2) claimant was not disabled for three consecutive weeks; and, (3) the treating physician had released claimant to return to work. Respondent also contends the ALJ erred by ordering respondent to provide the names of three physicians for selection by the claimant in the absence of a showing or finding that the medical care provided was not satisfactory.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the evidence and considering the arguments, the Board concludes the issues raised by respondent are not jurisdictional issues and are not subject to review at this stage of the proceedings.

The Board's review of preliminary hearing orders is limited. Not every error in law or fact is subject to review. The Board can review only allegations that the ALJ exceeded his/her jurisdiction. K.S.A. 1999 Supp. 44-551. This includes review of issues described in K.S.A. 1999 Supp. 44-534a as jurisdictional issues. Those jurisdictional issues are whether claimant suffered an accidental injury, whether the injury arose out of employment, whether notice is given or claim timely made, and whether certain other defenses apply. The term certain defenses refers to defenses which dispute the compensability of the injury under the Act. *Carpenter v. National Filter Service*, Docket No. 81,106 (Kan. App. 1999).

The issues raised by respondent in this appeal are not jurisdictional issues listed in K.S.A. 44-534a and do not otherwise amount to allegations that the ALJ exceeded her jurisdiction. They are allegations of error in applying the law to issues over which the ALJ has jurisdiction.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal from the preliminary hearing Order entered by Administrative Law Judge Nelsonna Potts Barnes on November 15, 1999, should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of February 2000.

BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS
Douglas D. Johnson, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director